IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

VINCENT X. LEE,)	
Register No. 37915,)	
)	
Plaintiff,)	
)	
V.)	No. 05-4108-CV-C-NKL
)	
DAVE DORMIRE, Superintendent, et al.,)	
)	
Defendant.)	

ORDER

On June 8, 2005, the United States Magistrate Judge recommended that plaintiff's motion to name additional defendants and to submit evidence of a conspiracy be denied. On July 29, 2005, the Magistrate Judge further recommended that plaintiff's third motion to amend be denied, defendants' motion to dismiss be granted and plaintiff's claims be dismissed, without prejudice, pursuant to 42 U.S.C. 1997e, for failure to exhaust administrative remedies [16].

The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on June 16 and August 8, 2005. The issues raised in plaintiff's exceptions were adequately addressed in the recommendations. The court is persuaded that the recommendations of the Magistrate Judge are correct and should be adopted.

Based upon the foregoing, plaintiff's claims against defendant Mitchell are also dismissed, without prejudice.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$255.00 appellate filing fee, regardless of the outcome of the appeal. *Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that plaintiff's claims against defendant Mitchell are dismissed, without prejudice. It is further

ORDERED that plaintiff's motions to amend are denied [11, 17, 13]. It is further ORDERED that defendants' motion to dismiss is granted and plaintiff's claims are dismissed, without prejudice, pursuant to 42 U.S.C. 1997e, for failure to exhaust administrative remedies [16, 22]. It is further

ORDERED that plaintiff's motion for release from Jefferson City Correctional Center is denied [25].

/s/

NANETTE K. LAUGHREY United States District Judge

Dated: November 10, 2005 Jefferson City, Missouri